
Service Tax

- INTRODUCTION
- WHAT IS A SERVICE?
- DECLARED SERVICES
- NEGATIVE LIST
- POPS RULES
- POT RULES
- REVERSE CHARGE
- PROCEDURAL ASPECTS
- VALUATION OF SERVICE

INTRODUCTION

- **<u>Prior to 1st July 2012</u>**
- Levy of service tax was based on selective approach- positive list
- "Service" was not defined
- Taxable category of service specifically defined
- Import of services was governed by import of service rules, 2006
- Export of services was governed by export of service rules, 2005
- Service tax liability of service recipient was there under reverse charged based on category of taxable service.

INTRODUCTION

- **Post 1st July 2012**
- Services are taxed comprehensively
- "Service" has been defined, includes declared services
- A few exceptions with negative list, exemption and abatements
- Liability to pay service tax is mainly on the service provider.
- Import and export of service rules rescinded, place of provision of service rules introduced.
- Reverse charge mechanism introduced i.E THE SHIFT OF LIABILITY FROM SERVICE PROVIDER TO SERVICE RECIPIENT.

SERVICE TAX REGIME

OVERVIEW OF PROVISIONS

Charging section
Section 66B prescribing ~~12%~~ 14%

"Service"
Defined under section 65B(44)

Negative list
17 specified services provided under section 66D

Exemption list
34 specified services provided under exemption notification

Declared services
Provided under section 66E

Place of provision of services
Rule making power under section 66C

Interpretation
Principles provided under section 66F

Cenvat Credit Rules

Point of Taxation

Valuation Rules

Reverse Charge

TAXABILITY OF SERVICE

SERVICE= ACTIVITY+CONSIDERATION+ONE PERSON TO ANOTHER+DECLARED SERVICE

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NEGATIVE LIST + EXEMPTION

TAXABLE SERVICE

SERVICE- SECTION 65B(44)

- Any activity
- Carried out **by a person for another**
- For **consideration**
- Includes **declared service**
    - Exclusions:
- Transfer of title in goods or immovable property in any manner
- Transaction only in money or actionable claims
- Service provided by an employee to an employer in the course of employment
- Fees paid to court or tribunal

ACTIVITY

- Not defined in finance act 2012
- As per para 2.1.1 of education guide
- “The word **activity** would include
    - Act done
    - A work done
    - A deed done
    - An operation carried out
    - Execution of an act
    - Provision of facility etc.

PERSON

- **<u>PERSON INCLUDES:</u>**
  - AN INDIVIDUAL
  - A HUF
  - A COMPANY
  - A SOCIETY
  - A LLP
  - A FIRM
  - AN AOP OR BOI WHETHER INCORPORATED OR NOT
  - GOVERNMENT
  - A LOCAL AUTHORITY
  - EVERY ARTIFICIAL JUDICIAL PERSON, NOT FALLING UNDER PRECEDING SUB CLAUSES;

CONSIDERATION

"**Consideration**" includes

(i) **Any amount that is payable for the taxable services provided or to be provided;**

(ii) **Any reimbursable expenditure or cost incurred by the service provider and charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed:**

DECLARED SERVICES- 66E

- Renting of **immovable property**;
- **Construction of complex, building, civil structure or a part thereof,** including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion- **certificate by the competent authority;**
- Temporary transfer or permitting the use or enjoyment of any **intellectual property rights;**
- **Development, design, programming, customization, adaption, up gradation, enhancement, implementation** of information technology software;
- **Agreeing to the obligation to refrain from an act**, or to tolerate an act or a situation, or to do an act;

DECLARED SERVICES-66E

- **Transfer of goods by way of hiring, leasing, licensing or in any such manner** without transfer of right to use such goods;
- Activities in relation to **delivery of goods on hire purchase or any system of payment by installments**;
- **Service portion** in execution of **works contract**;
- **Service portion** in **an activity wherein goods, being food or any other article of human consumption or any drink**(whether or not intoxicating) is supplied in any manner as a part of the activity.


Negative List of
Service Tax

NEGATIVE LIST OF SERVICES - EFFECTIVE FROM 1st JULY 2012

- Service tax will be leviable on all the services provided in the taxable territory by a person to another for consideration other than the services specified in the negative list
- There are 17 heads of services that have been specified in the negative list.
  - These are as follows:

- A). Services by **government or local authority excluding** the service to the extent **they are not covered elsewhere:**

A) services by the department of post, express parcel post, life insurance and agency services provided to a person other than government;

B) services in relation to an aircraft or vessel, inside or outside the precincts of a port or an airport;

C) transport of goods or passengers;

D) ~~support~~ services provided to business entities.

Now- all services provided by the government or a local authority to a business entity, except the services that are specifically exempted, or covered by any other entry of negative list, shall be liable to service tax.

SERVICES UNDER NEGATIVE LIST-66D

- B. Services by the reserve bank of India;
- C. Services by way of foreign diplomatic mission located in India;
- D. Service relating to agriculture;
- E. Trading of goods;
- F. **Any process amounting to manufacture or production of goods;**

Earlier: it includes carrying out any process for production or manufacture of alcoholic liquor for human consumption.

Now: service tax shall be levied on contract manufacturing/ job work for production of potable liquor for human consumption.

NEGATIVE LIST OF SERVICES-66D

- G. Selling of space for advertisement in print media;
- H. Services by way of access to a road or bridge on payment of toll charges;
- I. Betting, gambling or lottery;
- J. ~~Admission to entertainment events or access to amusement facilities;~~

Implications:

A) **Service tax shall be levied on service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.**

B) **Service tax shall be levied on service by way of admission to entertainment event of concert, pageants, musical performances concerts, award functions and sporting events other than the recognized sporting event, if the amount charged is more than 500 for right to admission to such an event.**

C) **Service by way of admission to entertainment event namely exhibition of cinematographic film, circus, recognized sporting event, dance, theatrical performances including drama and ballet is exempted from service tax from notification no. 25/2012-st (mega exemption)**

NEGATIVE LIST OF SERVICES-66D

- K. Transmission or distribution of electricity by an electricity transmission or distribution utility;
- L. Services by way of:
  - A) pre school education and education up to higher secondary school or equivalent;
  - B) education as a part of curriculum for obtaining a qualification recognized by any law for the time being in force;
  - C) education as a part of an approved vocational education course;
- M. Services by way of renting of residential dwelling for use as residence.
- N. Services by way of:
  - A) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.
  - B) inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks or such dealers;

NEGATIVE LIST OF SERVICES-66D

- O. Service of transportation of passengers, with or without accompanied belongings, by;
  - I) A STAGE CARRIAGE;
  - Ii) RAILWAYS IN A CLASS OTHER THAN-
    - A) FIRST CLASS
    - B) an air conditioned coach;
  - Iii) METRO, MONORAIL OR TRAMWAY;
  - Iv) INLAND WATERWAYS;
  - V) PUBLIC TRANSPORT, OTHER THAN PRE DOMINANTLY FOR TOURISM PURPOSE, IN A VESSEL OF LESS THAN FIFTEEN TONNE NET; OR
  - Vi) METERED CABS, ~~RADIO TAXIS~~ OR AUTO RICKSHAWS.
- P. Services by way of transportation of goods-
  - I) BY ROAD EXCEPT THE SERVICES OF-
    - A. A goods transportation agency;
    - B. A courier agency;
  - Ii) BY AN AIRCRAFT OR A VESSEL FROM A PLACE OUTSIDE INDIA TO THE FIRST CUSTOMS STATION OF LANDING IN INDIA;
  - Iii) BY INLAND WATERWAYS;

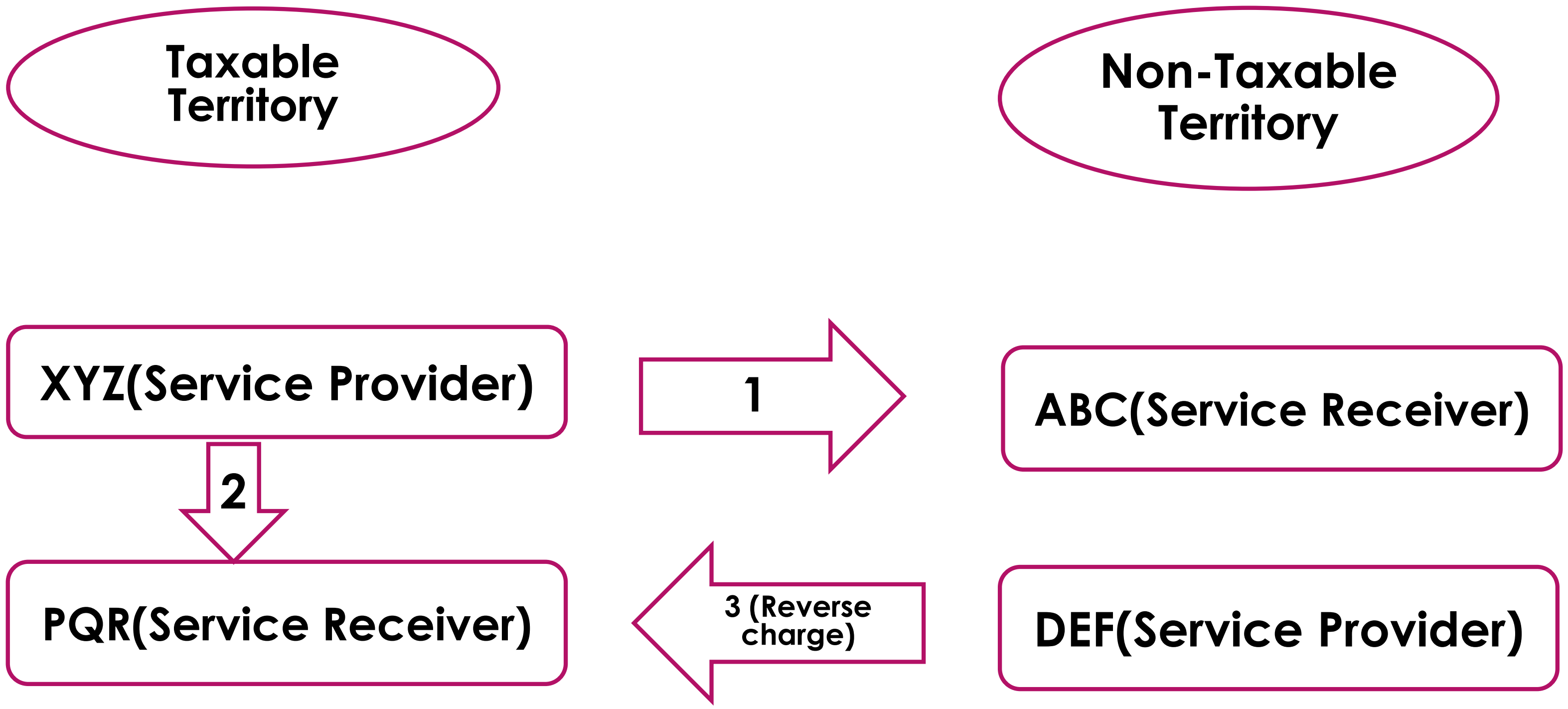
PLACE OF PROVISION OF SERVICE RULES 2012

PLACE OF PROVISION OF SERVICE RULES

- **Need of POPR-**
  - To determine taxing jurisdiction for a service
  - To determine the place where service shall be deemed to be provided
  - Basic principle to tax in jurisdiction of its consumption
    - Export are not taxed as consumed out side India (Non taxable territory)
    - Import are taxed as consumed in India (Taxable territory)
  - Replace old Export and import rules, Mainly for cross border service
  - Questions may be answered;
    - If the place of provision is taxable territory, tax is payable
    - If the provider location is taxable territory, provider will pay the tax
    - If service provider is not in taxable territory but service receiver, SR will pay. If it is B2C or Government, not taxable.

POPS RULES (CONTD…)

- **Rule 3* -** Place of provision generally is location of service receiver



If location of service receiver not available then the place of provision shall be the location of the service provider.

1.Not taxable, SR location Non taxable Territory.
2.Service tax liability to be borne by XYZ.
3.Reverse Charge Applicable taxable in the hands of PQR.
*** Default rule if none of the other Rules are applied**

POPS RULES (CONTD..)

- Rule 4- Performance Based Services

Place of provision: where services are performed

Clause (a): Services performed on goods made physically available by the recipient to service provider/ person acting on his behalf– repair, reconditioning (excluding manufacture), cargo handling, storage & warehousing, courier service, technical testing & analysis, dry cleaning etc.

If services provided from remote location by electronic means then place of provision: location where goods are situated

Rule not applicable to goods temporarily imported to India for repairs and are exported after the repairs without being put to any use **(w.e.f 01-10-2014)**

POPS RULES (CONTD..)

- Rule 4- Contd.

Clause (b): Services provided in physical presence of the service recipient/ person acting on his behalf – beauty treatment services, personal security services, health and fitness services, internet café services, photography services, classroom teaching etc.

Service receiver representing himself

OR

A person acting on behalf of the recipient

POPS RULES (CONTD…)

Rules	Nature of Services	Place of provision
Rule-5	Services related to immovable property - real estate agent , architect, Engineer etc.	Where immovable property is located or intended to be located
Rule-6	Event related services – award functions, seminar, fair, exhibitions	Place where the event actually held
Rule-7	If services are provided at more than one location	Where greatest proportion of taxable services is provided

POPS RULES (CONTD…)

Rules	**Nature of Services**	**Place of provision**
Rule-8	Where service provider and receiver are located in a taxable territory	Location of Service Receiver
Rule-9	•Banking co., FI, NBFC to account holder •On line information & data base access •**Intermediary services** •Hiring of transport (excluding aircrafts and vessels except yacht) up to period of one month **(w.e.f 01-10-2014**)	Location of Service Provider
Rule-10	Transportation of goods	Destination of goods

INTERMEDIARY

- **“Intermediary” means**
- a broker,
- an agent or
- any other person, by whatever name called,
- who arranges or facilitates a provision of a service (hereinafter called the main service) or a supply of goods,
- between two or more persons,
- but does not include a person who provides the main service or supplies the goods on his account

EXCEPTIONS TO RULE 10

- In case of GTA, place of service is location of the person liable for payment of tax.
- Not applicable to transportation of goods through courier or mail (Rule 4).

Location of service provider - GTA	Location of service receiver – Person liable to pay freight & tax	Destination of goods	POPS
J&K	Delhi	Mumbai	Delhi
J&K	Delhi	J&K	Delhi
Delhi	Mumbai	J&K	Mumbai
J&K	J&K	Delhi	J&K (not taxable)
Delhi	J&K	J&K	Delhi*

*The person liable to pay tax here will be GTA

POPS RULES (CONTD…)

Rules	Nature of Services	Place of provision
Rule 11	Transportation of passenger	Starting point on the conveyance
Rule 12	Services provided on 'board of conveyance'	First scheduled point of departure
Rule 13	Any type of services which the govt. may notify	Place of effective use and enjoyment of services
Rule 14	Order of application of rules	Latter is better


Service Tax
Point of
Taxation
Rules

POINT OF TAXATION RULES (POTR)

What is 'Point of Taxation' (POT)?

- It is the trigger point for payment of Service tax to the Government
- It is the ***point in time*** when the service shall be **deemed** to have been provided / completed

Legal Provisions

- Prior to 01.04.2011, Service tax was payable on **receipt basis**, i.e., by the $6^{th}/5^{th}$ day of the month immediately following the calendar month in which the payments are received towards the value of taxable service – Rule 6(1) of the Service Tax Rules,1994 ('STR')
- However, w.e.f 01.04.2011, Rule 6(1) was amended which provides that, Service tax shall be paid by the $6^{th}/5^{th}$ day of the month immediately following the calendar month in which the service is deemed to be provided as per the rules framed in this regard
- In pursuance to the said amendment in **Rule 6(1) of the STR, Point of Taxation Rules, 2011 ('POTR') have been introduced with effect from 01.04.2011**
- **Further, w.e.f 01/10/2014 E-payment of service tax is mandatory for all Assessee i.e by 6^{th} day of the immediately following month as per POTR.**

POINT OF TAXATION RULES (POTR)

- "Point of Taxation" has been defined under **Rule 2(e)** of the POTR:

  *"point of taxation" means the **point in time** when a service shall be **deemed to have been provided**;*

- To determine the point of taxation, **Rule 3** of the POTR has to be referred. As per the said Rule 3, point of taxation will be:
  - For all cases, unless otherwise provided, **<u>the time when the invoice for the service provided or agreed to be provided is issued</u>.** Invoice is required to be issued within 30 days from the date of completion of service as per Rule 4A of the STR.
  - If invoice is **not issued within 30 days** from the date of completion of service, **<u>the date of completion of provision of service</u>.**
  - If payment received before issuing of invoice or completion of provision of service, as the case may be, **<u>the time when such payment is received to the extent of such payment</u>**.

POINT OF TAXATION RULES (POTR)

- In the case of **Continuous supply of services**, where the provision of the whole or part of the service is determined periodically, on completion of each event in terms of a contract, which requires service receiver to make payment to service provider, **the date of completion of such event as specified in the contract shall be deemed to be the date of completion of provision of service [proviso (i) to rule 3(b) inserted w.e.f. 1.04.2012 in lieu of deletion of Rule 6 of POTR].**
- In the case of receipt of an amount up to Rs. 1000/- in excess of the amount indicated in the invoice, the date of invoice or date of completion of provision of service, as the case may be.

POINT OF TAXATION RULES (POTR)

Rule 4 – Change in rate of tax

Services provided before change in rate

Date of Invoice	**Date of Payment**	**Point of Taxation**
After the change	After the change	Date of Invoice/Payment (Whichever is earlier)
Before the Change	After the Change	Date of Invoice
After the Change	Before the Change	Date of Payment

POINT OF TAXATION RULES (POTR)

Rule 4 – Change in rate of tax

Services provided after change in rate

Date of Invoice	**Date of Payment**	**Point of Taxation**
Prior to the change	After the change	Date of Payment
Prior to the change	Prior to the Change	Date of Invoice/receipt of payment whichever is Earlier
After the Change	Before the Change	Date of Invoice

Thumb Rule:-
If any **two events** out of following three happens before rate change then old rate will apply otherwise changed rate:-

- Completion of service
- Invoice Date
- Date of payment

POT ILLUSTRATIONS- RULE 4

SERVICE PROVIDED BEFORE CHANGE IN EFFECTIVE RATE OF TAX

INVOICE ISSUED	PAYMENT RECEIVED	RATE TO BE CONSIDERED
After the change in rate of tax	After the change in rate of tax	14%
Before the change in rate of tax	After the change in rate of tax	12.36%
After the change in rate of tax	Before the change in rate of tax	12.36%

POT ILLUSTRATION- RULE 4

SERVICE PROVIDED AFTER CHANGE IN EFFECTIVE RATE OF TAX

INVOICE ISSUED	PAYMENT RECEIVED	RATE TO BE CONSIDERED
Before the change in rate of tax	After the change in rate of tax	14%
Before the change in rate of tax	Before the change in rate of tax	12.36%
After the change in rate of tax	Before the change in rate of tax	14%

POT- SPECIFIC PROVISION RELATING TO:

Rules	Nature of services	Point of taxation
	Export of services	• Date of receipt of consideration • If consideration not received within 1 year, then the POT is shifted to general provisions

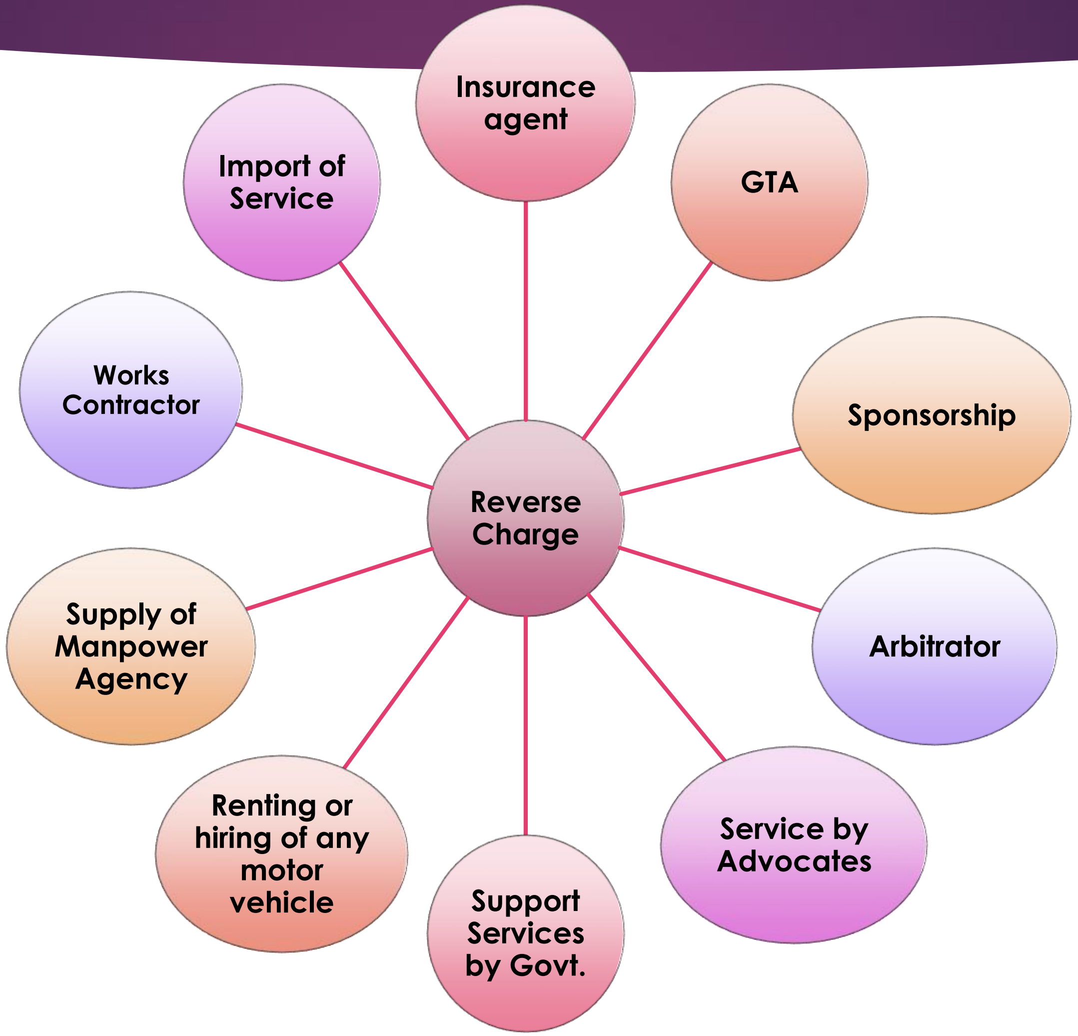
Rule 5	New Service	• NO TAX if:
		  • Invoice issued AND payment received before service becoming taxable
		  • Payment received AND invoice issued within 14 days of service becoming taxable

POT- SPECIFIC PROVISIONS RELATING TO:

Rule	Nature of services	Point of taxation
Rule 7	Import of Services from Associated enterprises (AE)	➢ For Service received from AE situated outside India- Earlier of: • Date of payment or • Date of Debit in the books of account
	Import of services/Reverse Charge	• Date of payment • If payment not made within 3 months, then the POT shall be the date immediately following the said period of 3 months
Rule 8	Copyrights, Royalties etc	➢ Earlier of: • Receipt of consideration or • Date of issue of invoice

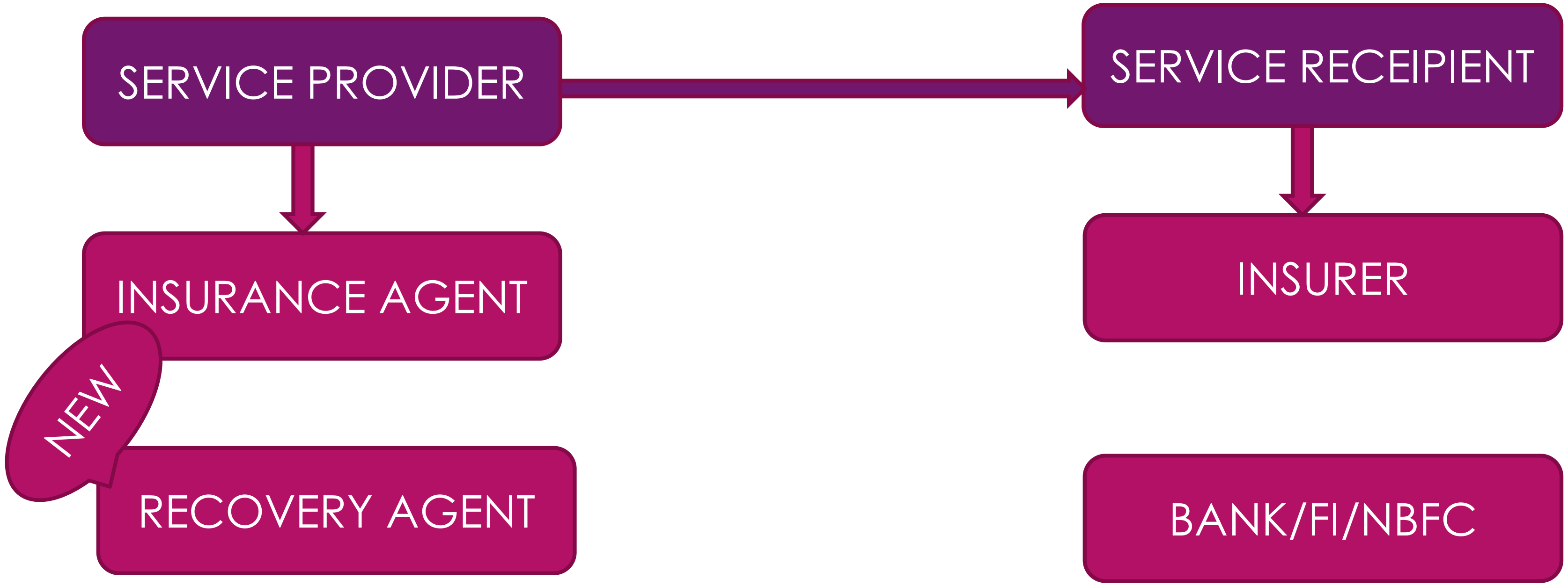
REVERSE CHARGE

REVERSE CHARGE MECHANISM- SECTION 68(2) READ WITH RULE 2 (1) (d)



REVERSE CHARGE MECHANISM- SECTION 68(2) READ WITH RULE 2 (1) (d)

Full Reverse Charge- 100% service tax is to be discharged by the service recipient in respect of the following services :



REVERSE CHARGE MECHANISM- SECTION 68(2) READ WITH RULE 2 (1) (d)

GTA

Transport of Goods by Road

SPECIFIED CATEGORY

ANY PERSON

SPONSORSHIP

BODY CORPORATE, PARTNERSHIP FIRM

ARBITRAL TRIBUNAL

BUSINESS ENTITY

LAWYER/ LAW FIRM

LEGAL SERVICES

BUSINESS ENTITY

REVERSE CHARGE MECHANISM- SECTION 68(2) READ WITH RULE 2 (1) (d)

GOVT./LOCAL AUTHORITY → (RESIDUARY) SUPPORT SERVICES → BUSINESS ENTITY

DIRECTOR → COMPANY/BODY CORPORATE (NEW)

INDIVIDUAL, HUF, PARTNERSHIP FIRM, AOP- → MANPOWER SERVICE → BUSINESS ENTITY REGISTERED AS BODY CORPORATE (NEW)

REVERSE CHARGE MECHANISM-SECTION 68(2) READ WITH RULE 2 (1) (d)

NEWLY INSERTED SERVICES

ANY PERSON → (ANY SERVICE) → AGGREGATOR

MUTUAL FUND AGENT/DISTRIBUTOR → MUTUAL FUND OR ASSEST MANAGEMENT COMPANY

SELLING OR MARKETING AGENT OF LOTTERY TICKETS → LOTTERY DISTRIBUTOR OR SELLING AGENT

AGGREGATOR

- <u>"Aggregator"</u>
- Means a person,
- Who owns and manages a web based software application,
- And by means of the application and a communication device,
- Enables a potential customer to connect,
- With persons providing service of a particular kind under the *brand name** or trade name of the aggregator;

BRAND NAME

- **<u>“Brand name or trade name” means</u>**,
- A brand name or a trade name,
- Whether registered or not,
- That is to say, a name or a mark,
- Such as an invented word or writing, or a symbol, monogram, logo, label, signature,
- Which is used for the purpose of indicating,
- Or so as to indicate a connection,
- In the course of trade, between a service and some person using the name or mark with or without any indication of the identity of that person;’;

REVERSE CHARGE MECHANISM- SECTION 68(2) READ WITH RULE 2(1)(D)

Partial Reverse Charge- In respect of the following services, service tax is to be discharged by both the service recipient and the service provider at the specified percentage both located in Taxable Territory :

SERVICE PROVIDER
(INDIVIDUAL, HUF, PARTNERSHIP FIRM/LLP, AOP/BOI

SERVICE RECEIVER
(BUSINESS ENTITY REGISTERED AS BODY CORPORATE)

50%

EXECUTION OF WORKS CONTRACT

50%

PARTIAL REVERSE CHARGE

RENTING OF PASSENGER VEHICLE

(TO ONE WHO IS NOT INTO SIMILAR BUSINESS)

0% — ABATEMENT AVAILED — 100%

50% — ABATEMENT NOT AVAILED — 50%

Payment of Service Tax- Section 68 read with Rule 6 of STR

Particulars	Frequency	Due Date
Individual/Partnership Firm	Quarterly	6^{th} of the following quarter
Others	Monthly	6^{th} of the following quarter
Note: For service provided in the month of March, service tax shall be paid by 31^{st} March		


BUDGET 2015
Service Tax raised to
14% from 12.36%
- Arun Jaitley

INTEREST ON DELAYED PAYMENT OF ST-SECTION 75

- **Every person liable to pay the tax**, in accordance with the provisions of section 68 or rules made thereunder, who fails to credit **the tax or any part thereof** to the account of CG within the period prescribed,

Shall pay **simple interest**

….[@ Not below 10% and not exceeding 36% p.a, as is for the time being fixed by the CG, by notification in the official gazette,]

…. **For the period** by which such crediting of the tax or any part thereof is **delayed**.

SP(with PY limit within 60 lakhs)- interest rate reduced by 3%

N/N 12/2014 (W.E.F. 1st OCT, 2014): APPLICABLE RATE OF INTEREST

PERIOD OF DELAY	APPLICABLE RATE OF INTEREST	APPLICABLE RATE OF INTEREST FOR SMALL ASSESSEE
FIRST 6 MONTHS OF DELAY	18% P.A	15% P.A
FOR NEXT 6 MONTHS	24% P.A	21% P.A
FOR PERIOD IN EXCESS OF 1 YEAR	30% P.A	27% P.A

SERVICE TAX (DETERMINATION OF VALUE) RULES, 2006

- RULE 2-A: **DETERMINATION OF VALUE OF SERVICES** INVOLVED IN THE EXECUTION OF A **WORKS CONTRACT**

	IN CASE OF-	SERVICE TAX SHALL BE PAYABLE ON-
(A)	WORKS CONTRACTS ENTERED INTO FOR EXECUTION OF **ORIGINAL WORKS**	**40% OF THE TOTAL AMOUNT CHARGED** FOR THE WORKS CONTRACT.
(B)	**ALL OTHER WORKS CONTRACT** INCLUDING THE WORKS CONTRACT ENTERED INTO FOR: (i) WORKS CONTRACT ENTERED INTO FOR **MAINTENANCE** OR **REPAIR OR RECONDITIONING OR RESTORATION OR SERVICING OF ANY GOOD** (ii) **MAINTENANCE**, REPAIR, COMPLETION AND FINISHING SERVICES SUCH AS GLAZING, PLASTERING, FLOOR AND WALL TILLING, INSTALLATION OF ELECTRICAL FITTINGS OF AN **IMMOVABLE PROPERTY.**	**70% OF THE TOTAL AMOUNT** CHARGED FOR THE WORKS CONTRACT.

ORIGINAL WORKS:

- **Original works** means:
  - (I) All new **constructions:**
  - (Ii) All types of **additions and alterations to abandoned or damaged structures on land** that are required to make them workable;
  - (Iii) **Erection, commissioning or installation of plant, machinery or equipment or structures**, whether pre-fabricated or otherwise:

SERVICE TAX (DETERMINATION OF VALUE) RULES 2006

- Rule 5: **Inclusion in or or exclusion from value of certain elements:**

Every expenditure or cost incurred by service provider in course of providing service is includible in value, except the cost/expenditure incurred in capacity of pure agent.

- Rule 5: **It provides for addition of re-imbursements**

- **Intercontinental Consultants and Technocrats Pvt. Ltd-2012-Delhi HC**
- Sec-67(1)(i) provides that where service is provided for consideration in money, the value of service shall be **"GROSS AMOUNT CHARGED" for such service.**
- **Thus, in terms of sec 67, only amount charged for such service can form part of value of service**, *reimbursements towards travelling, boarding, lodging thus, cannot form part value of services.*
- ***Rule 5 providing for such inclusion is invalid/ultra vires to Sec 67*** *and travels much beyond the scope of that section. It breaches the boundaries of sec 67.*
- **Finance act 2015** has made an amendment to sec 67(definition of consideration) to overcome the effect of Delhi HC judgement.

MISCELLANEOUS AMENDMENTS

- **Swachh bharat cess:**

Central government has empowered to impose a **Swachh Bharat Cess** **on all or any of the taxable services at a rate of 2% on the value of such taxable services.** The cess shall be levied from such date as may be notified by the central government after the enactment of the finance bill, 2015.

- **Amendment made with immediate effect:**

  - **Existing exemption, vide notification no. 42/12-ST dated 29/06/2012, to the services provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect**. This is done on account of the amendments made in law in the previous budget making the place of provision of service provided by such agents as outside the taxable territory.

  - **The facility of advance ruling is being extended to all resident firms** by specifying such firms under section 96a(b)(iii) of the finance act, 1994.

MISCELLANEOUS AMENDMENTS

- **With effect from 01st march 2015,**
- **Rule 4 of STR has been amended to provide that the CBEC shall by way of an order will specify the conditions, safeguards and procedure for registration of service tax.** In this regard order no. **1/15-st, dated 28/02/2015 has been issued**, **prescribing documentation, time limits and procedure for registration.** It has also been prescribed that henceforth **registration for single premises shall be granted within two days of filing application.**
- **Rule 4, 4a and 5a of STR**: **provision for issuing digitally signed invoices is being added** along with the option of maintaining of records in electronic form **and their authentication by means of digital signatures**. The conditions and procedure in this regard shall be specified by the CBEC. The changes are applicable with immediate effect.
- **Rule 6 (6a) of STR**: **provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to the amendment in section 73 for enabling such recovery**. This change will come into effect from the date of enactment of the finance bill, 2015.

MISCELLANEOUS AMENDMENTS

- **In respect of services given in below table the <u>SERVICE PROVIDER</u> has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. <u>Consequent to the upward revision in Service Tax rate, the said alternative rates is revised proportionately</u>** as per the table given below:

S.NO	NAME OF SERVICE	OLD RATE	NEW RATE
1	Air travel agent (domestic bookings)	0.6%	0.7%
	Air travel agent (international bookings)	1.2%	1.4%
2	Life insurance service	3% & 1.5%	3.5% & 1.75% respectively

MISCELLANEOUS AMENDMENTS

S.NO	NAME OF SERVICE	OLD RATE	NEW RATE
3.	MONEY CHANGER SERVICE	(a) 0.12% of the gross amount of currency exchanged for an amount up to rupees 1,00,000/ subject to the minimum amount of rupees 30; and (b) Rupees 120 and 0.06% of the gross amount of currency exchanged for an amount of rupees exceeding rupees 100,000/ and upto Rupees 10,00,000; and (c) Rupees 660/ and 0.012% of the gross amount of currency exchanged for an amount of rupees exceeding 10,00,000/ subject to maximum amount of rupees 5,000/	(a) 0.14% of the gross amount of currency exchanged for an amount up to Rupees 1,00,000 subject to the minimum amount of Rupees 35, and (b) Rupees 140 and .07% of the gross amount of currency exchanged for an amount of rupees exceeding rupees 1,00,000 and upto Rupees 10,00,000; and (c) Rupees 770 and 0.014% of the gross amount of currency exchanged for an amount of Rupees exceeding 10,00,000 subject to maximum amount of rupees 5,000/

MISCELLANEOUS AMENDMENT

S.NO	NAME OF SERVICE	OLD RATE	NEW RATE
4	Lottery distributor and selling agent	Rupees 7,000/ or Rupees 10,000.	Rupees 8,200/- & Rupees 12,800- respectively

MISCELLANEOUS AMENDMENTS

1. **<u>Section 76 is being amended to rationalize the provisions relating to penalties</u>**, in cases **not involving fraud or collusion or wilful misstatement or suppression of facts** or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-

   (a) **Penalty not to exceed ten percent** of Service Tax amount involved in such cases;

   (b) **no penalty is to be paid if Service Tax and interest is paid within 30 days of issuance of notice under section 73(1)**

   (c) **a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer** by way of an order is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and

   (d) **if the Service Tax amount gets reduced** in any appellate proceeding, **then the penalty amount shall also stand modified accordingly**, and **benefit of reduced penalty (25% of penalty imposed) shall be admissible if** service tax, interest and reduced penalty is paid within 30 days of such appellate order.

MISCELLANEOUS AMENDMENTS

- **Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or wilful mis-statement of suppression of facts** or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-
- (a) **Penalty shall be HUNDRED PER CENT OF SERVICE TAX AMOUNT involved in such cases**;
- (b) **a reduced penalty equal to 15% of the Service Tax amount** is to be paid i**f Service Tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;**
- (c) **a reduced penalty equal to 25% of the Service Tax amount,** determined by the Central Excise officer by an order, **is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order;** and
- (d) **if the Service Tax amount gets reduced** in any appellate proceeding, **then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty** (25%) **shall be admissible if Service Tax, interest and reduced penalty is paid within 30 days of such appellate order.**

MISCELLANEOUS AMENDMENTS

- **A new section 78(B) is being inserted** to prescribe, by way of a **Transition provision**, that,-

(a) **Amended provisions of sections 76 and 78 shall apply to cases where either no notice is served**, or **notice is served under subsection (1) of section 73 or proviso thereto** **but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015;** **And**

(b) **In respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015,** **penalty shall not exceed 50% of the Service Tax amount.**

MISCELLANEOUS AMENDMENTS

- **Section 80**, that **provided for waiver of penalty in certain circumstances**, **is being omitted.**

- **Section 86 is being amended to prescribe that remedy against the order passed by Commissioner (Appeal), in a matter involving rebate of Service Tax, shall lie in terms of section 35EE of the Central Excise Act.**
  - **It is also being provided that all appeals filed in Tribunal after the date the Finance Act, 2012** came into effect and pending on the date when the Finance Bill, 2015 receives assent of the President **shall be transferred and dealt in accordance with section 35EE of the Central Excise Act.**

AMENDMENTS TO MEGA EXEMPTION NOTIFICATION 25/2012

- 1. **RATIONALIZATION OF EXISTING EXEMPTIONS:**

(A) **Exemption presently available** on specified services of construction, repair, maintenance, renovation or alteration service provided to government, a local authority, or governmental authority (vide S.No. 12 of the notification no. 25/12-st) **shall be limited only to:-**

(a) A historical monument, archaeological site or remains of national importance, archaeological site or remains of national importance, archaeological excavation or antiquity;

(b) Canal, dam, or other irrigation work; and

(c) Pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

Exemption to other services presently covered under S.no 12 of notification No. 25/2012-ST is being withdrawn.

(B) **Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port provide vide entry 14 is being withdrawn**. However the other exemptions covered under entry 14 will continue unaltered.

(C) Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, will be limited only to such cases where amount charged is up to Rs. 1,00,000 for a performance.

AMENDMENTS TO MEGA EXEMTION NOTIFICATION 25/2012

- (D) Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. **Transportation of agricultural produce is separately exempt, and this exemption will continue.**
- (E) **Exemptions are being withdrawn on the following services.**
  - **(a) Services provided by a mutual fund agent to a mutual fund or assets management company,**
  - **(b) Distributor to a mutual fund or AMC,**
  - **(C) Selling or Marketing agent of lottery ticket to a distributor.**

  Service tax on these services shall be levied on reverse charge basis.
- (F) **Exemption is being withdrawn on the following services;**
  - (a) Departmentally Run public telephone;
  - (b) Guaranteed public telephone operating only local calls;
  - (c) Services by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

MEGA EXEMPTION NOTIFICATION 25/2012- NEW EXEMPTIONS INTRODUCED

- (A) **Exemption to any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment.** **All ambulance services** are covered within the scope of this exemption.
- (B) **Exemption to Life insurance** service provided by way of **Varishtha Pension Bima Yojna.**
- (C) **Exemption to Service provided by a Common Effluent Treatment Plant operator for treatment of effluent.**
- (D) **Exemption** to **Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables**
- (E) **Exemption** to **Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve. These services when provided by Government or local authority are covered under Negative List**
- (F) **Exemption** to **Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitor as one of it's members**
- (G) **Exemption to Goods transport agency** Service Provided **for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport vide notification No. 31/12-ST dated 20.6.2012.**

MEGA EXEMPTION NOTIFICATION 25/2012- NEW EXEMPTIONS INTRODUCED

- (**H) Exemption to service by way of right to admission to**,-
  - (i) exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
  - (ii) recognized sporting events.
  - (Iii) concerts, pageants, award functions, musical performances or sporting events not covered by S. No. ii,
  - where the consideration for such admission is up to Rs. 500 per person.

- **These exemptions are in lieu of activities covered by the Negative List which are withdrawn. The change shall come into effect from a date to be notified after the enactment of the Finance Bill, 2015.**

AMENDMENTS IN ABATEMENT NOTIFICATION 26/2012

- 1. **The Taxable portion of service of transportation by rail, road and vessel shall be 30% subject to a uniform condition of non-availment of CENVAT Credit on inputs, capital goods and input services.**

- 2. The **Taxable portion** of value of **air transport of passenger for higher classes shall be 60% as against economy class for which Service Tax is payable on 40% of the value**

- 3. **Abatement is withdrawn for services provided in relation to chit and Service Tax is payable by chit fund foremen on the full consideration received** by way of fee, commission or any such amount with a facility **to avail CENVAT Credit on the same.**

AMENDMENTS IN CENVAT CREDIT RULES (CCR)

- 1. **Earlier CENVAT credit to service receiver under partial reverse charge was eligible only if payment of service has been made to service provider**. **Now with effect from 1.4.2015 Rule 4(7) has been amended to allow CENVAT Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.**

- 2. **Time limit** for taking **CENVAT credit on inputs and input services** **enhanced from the present 6 months to one year [Rule 4]**

- 3. **Time limit** **for return of capital goods from a job worker** **enhanced from the present 6 months to two years [Rule 4]**

- 4. **CENVAT relating to EC & SHEC with respect to Excise lying in the books as on 28.2.2015, will be available for utilisation**


VALUE
ADDED
TAX!

VALUE ADDED TAX

- DEFINITION:
  - VAT is a state level
    - Multi Point Consumption Tax
    - On value addition.
  - Entry 54 of List II (State List) in the Seventh Schedule to the constitution - “Tax on sale or purchase of goods within the state”.
- VAT not levied on Exempted goods, Dealers below threshold level, Imports / Exports & Inter-state sale / Inter-state branch transfer.

VALUE ADDED TAX-BRIEF

- VAT avoids cascading effect of tax:
  - By only taxing the value added at each stage of production , &
  - Through allowance of Input Tax Credit.

- Maurice Lauré, Joint Director of the French Tax Authority, was first to introduce VAT with effect from 10 April 1954 in France.

- Currently VAT in 130 countries across the globe, with refined form "GST" in many.

- VAT is a multi-point levy in strong contrast to sales tax, which was Single point levy.

- VAT, by now, has been successfully implemented in almost all the states & UTs in India, the latest being in UP, w.e.f. 1st January, 2008.

ADVANTAGES OF VAT

- Transparency.
- Tax evasion is minimized & more revenue for the state exchequer.
- Better than First Point Tax & Last Point Tax.
- Elimination of cascading effect of taxes
- Set off of tax paid on capital goods
- Introduction of self assessment procedure, thereby :
  - Reducing cumbersome procedure of assessments in every case, &
  - Reducing hassles to the dealers.

BASIC TERMINOLOGY

- **GOODS:**

means all kinds of **movable property**, whether tangible or intangible, other than

  - newspapers, actionable claims, electricity, stocks and shares and securities

and **includes**:

  - live stock, all materials, commodities and articles ,
  - and every kind of property (whether as goods or in some other form) involved **in the execution of a works contract**
  - and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale

- **CAPITAL GOODS:**

  - Definition **similar to** that in **CENVAT CREDIT RULES, 2004**.

BASIC TERMINOLOGY

- **SALE PRICE**
  - valuable consideration received or receivable by a dealer for sale of any goods
  - **<u>Includes:</u>** excise duty, special excise duty or any other duty or tax
  - shall not include –
    - any discount or commission allowed by the seller according to normal trade practice, at the time of sale of goods ;
    - the cost of outward freight separately charged ;
    - **<u>the amount of tax under the Act</u>**, (i.e., VAT) if separately charged by the dealer

BASIC TERMINOLOGY

- **GROSS TURNOVER**:
  - Aggregate amount of **sale price**, for which the goods are either bought or sold, **supplied or distributed** by a dealer, either directly **or through another**, for valuable consideration *(so, it includes gross local sales – taxable & exempt, gross interstate sales, gross exports & gross interstate stock transfer outside the state)*.
  - The amount received on account of price variation or price escalation shall be deemed to form part of Gross Turnover of the financial year during which it is actually received.
  - The amount to be included in the gross turnover in respect of movable goods, agreed to be sold under a works contract, shall be its sale price.

BASIC TERMINOLOGY

- **SALE**
  - Includes, *inter alia*:
    - Any transfer of property in goods for a valuable consideration,
    - Transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract,
    - Hire purchase,
    - A transfer of the right to use any goods for any purpose for a valuable consideration,
    - Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink for a valuable consideration,
    - Sale by Central Government & State Government.

BASIC TERMINOLOGY

- **Taxable turnover :**
  - means **the turnover on which a dealer shall be liable to pay tax**
  - but shall **not include**
    - Discounts
    - Eligible sales returns
    - Interstate sales
    - Export out of the territory of India
    - Interstate Stock Transfer of Goods, etc.
    - amount charged separately as interest in the case of a hire-purchase transaction
    - Tax if included in Gross turnover
    - Zero rated / exempted sales

BASIC TERMINOLOGY

- **IMPORT**:

  means the bringing of goods into the State from any place outside its territorial limits.

- **EXEMPT / TAX FREE SALE** :

  No tax shall be payable on the sale of goods in Schedule 'A' and a taxable person shall not charge tax on the sale of goods which are declared tax free under this section.

REGISTRATION UNDER VAT LAW

- Maximum threshold limit – Rs. 5,00,000/- as suggested by white paper, currently in the range of Rs. 5,00,000/- to Rs. 10,00,000/-. States to bear the loss due to such increase.
- Only a "Registered Dealer" can collect & pay Output Tax on taxable sales to State Govt.
- Only a "Registered Dealer" claim Input Tax Credit of tax paid on local purchases.
- Also mandatory for dealer under composition scheme.
- Voluntary for casual dealer, or a dealer with turnover less than the maximum threshold.
- 11-digit numerical Taxpayer's Identification Number (TIN) (First two characters to represent the State Code, next nine different in different States).

ACCOUNTS TO BE MAINTAINED

- A monthly VAT account specifying total output tax, total input tax and net tax payable or the excess tax credit due for carry forward.
- Purchase records, showing details of purchases on which tax has been paid, purchases made without payment of tax, purchases made from an exempted unit and interstate purchases.
- Sales records showing separately sales made at different tax rates, zero–rated taxable sales and tax-free sales.
- Record of inter-state sales and inter-state transfer of goods, including that of goods sent for job work.
- Details of input tax calculations.

ACCOUNTS TO BE MAINTAINED

- Road permits and delivery challans, wherever applicable.
- Annual accounts including trading, profit and loss accounts and the Balance sheet.
- Bank records.
- Cash book, daybook, ledger, invoice or bill books and purchase vouchers.
- The printouts (hard copies) of records and documents maintained in electronic form.

DEBIT NOTES & CREDIT NOTES

- DEBIT NOTES

  - Issued by the selling dealer when the amount shown as tax charged in a tax invoice is less than the tax properly chargeable in respect of the sale, or in the case of purchase returns.

  - Circumstances warranting the issue of a debit note:

    - Eligible purchase returns

    - Price adjustments between the buyer & seller increasing the incidence of tax actually payable by the buyer (e.g.: Retrospective revision of prices, revision on account of incentive schemes, etc.)

*(**NOTE**: corresponding revised invoice must also be issued along-with debit / credit notes)*

DEBIT NOTES & CREDIT NOTES

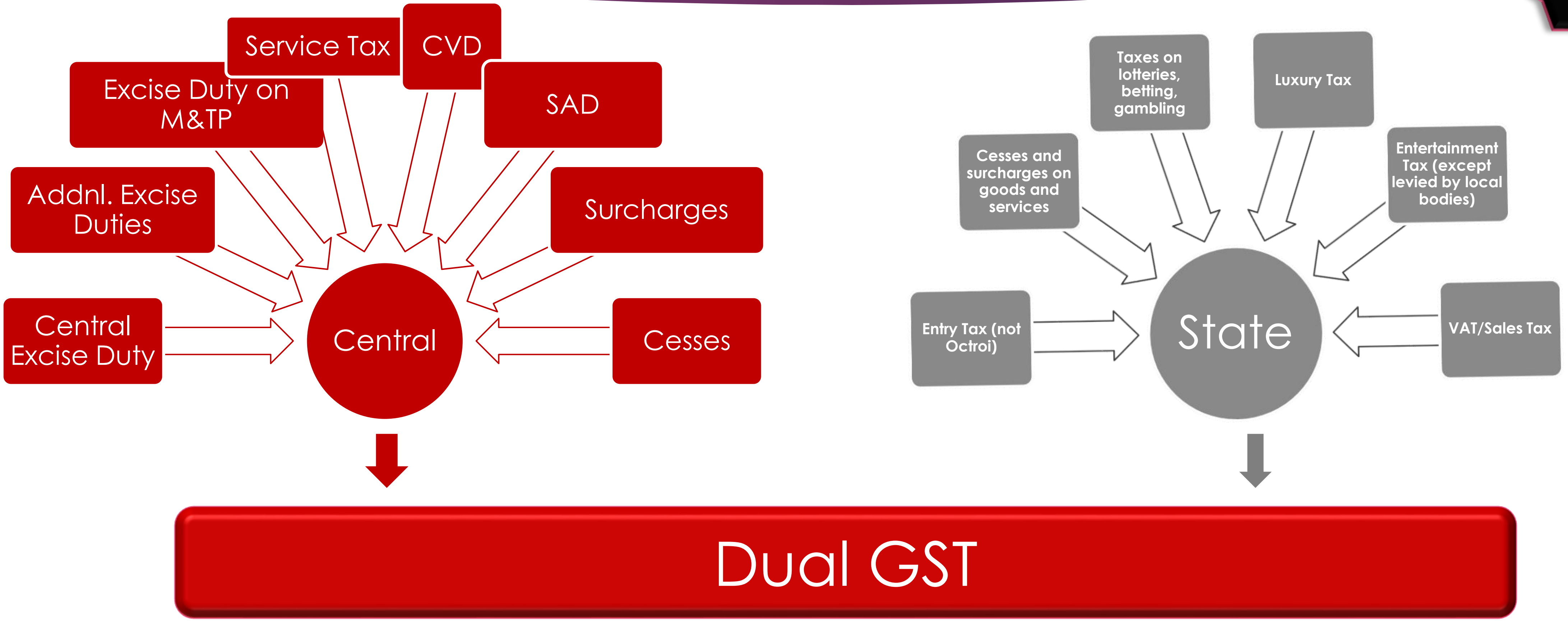
- CREDIT NOTES
  - Issued by the selling dealer when the amount shown as tax charged in a tax invoice exceeds the tax properly chargeable in respect of the sale.
  - circumstances warranting the issue of a credit note:
    - Eligible Sales returns
    - Discount provided to a buyer after the sales have been effectuated (say, annual discount)
    - Price adjustments between the buyer & seller reducing the incidence of tax actually payable by the buyer (e.g.: Retrospective revision of prices, revision on account of incentive schemes, etc.)

*(**NOTE**: corresponding revised invoice must also be issued alongwith debit / credit notes)*

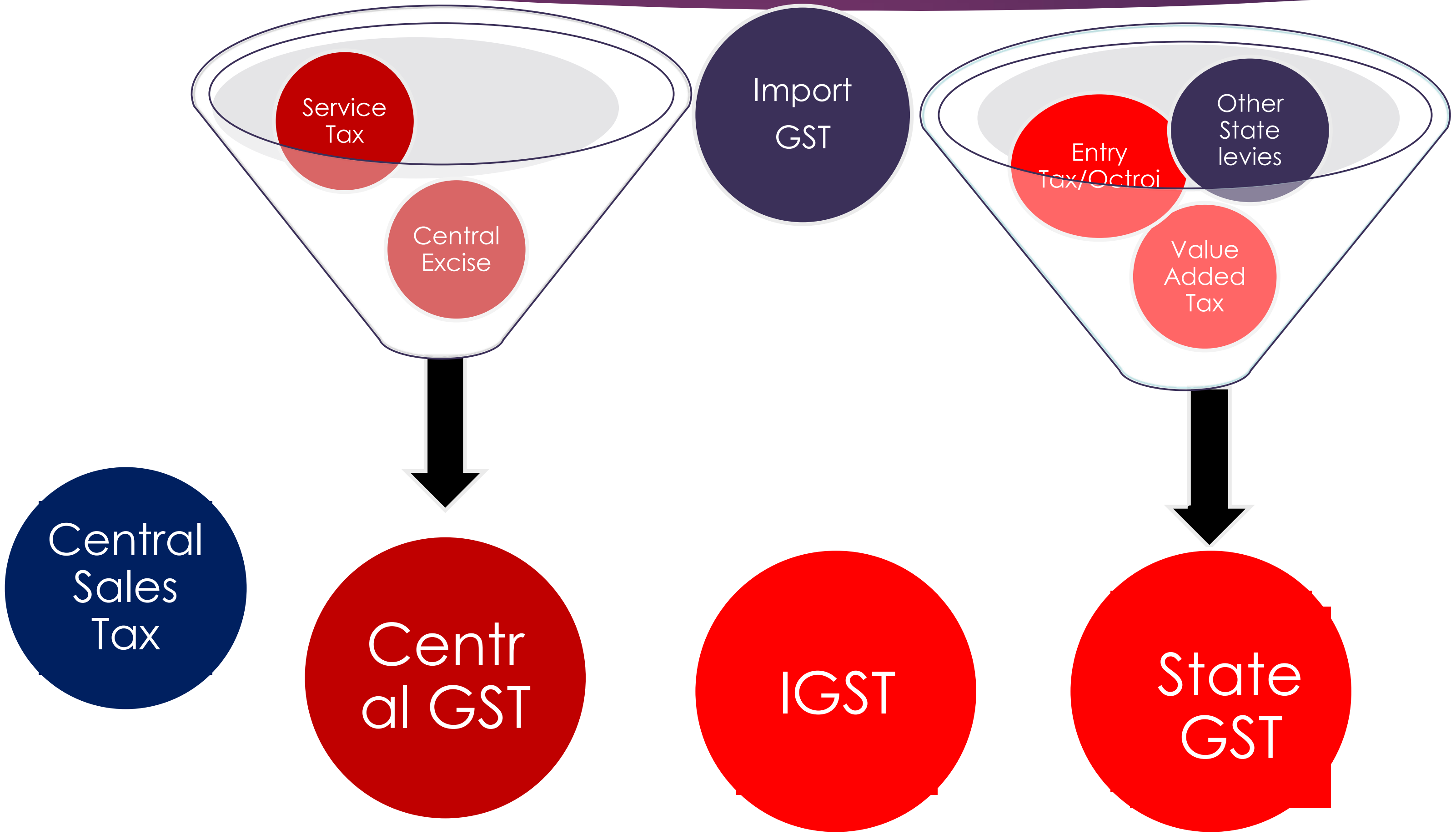
Are you ready for GST?

KEY TAXES SUBSUMED

CST TO BE PHASED OUT



Likely GST Model



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